

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOYCE DANIELS,	)	
	)	
Plaintiff,	)	Civil Action No. 18-1019
	)	
v.	)	Judge Cathy Bissoon
	)	
CITY OF PITTSBURGH, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

Defendants’ Motion to Dismiss (Doc. 27) will be denied. As to *Monell* liability, Defendants demand too much of Plaintiff at this stage in the proceedings. As Plaintiff’s counsel aptly observes, the case-decisions cited by Defendants were resolved at later stages. Plaintiff has stated plausible claims for relief, and Defendants’ arguments are rejected, without prejudice to renewal on summary judgment.

Likewise, and for the reasons stated in Plaintiff’s Opposition Brief (Doc. 35), Defendants’ arguments for dismissal of the wrongful-death claim(s) are denied, without prejudice.

Last is Defendants’ challenge to Plaintiff’s having framed her *Monell* claims under the rubric of the 14<sup>th</sup> Amendment. As a practical matter, parties routinely present, and courts routinely consider, *Monell* liability as an entity unto itself, without reference to a constitutional provision. At least some courts have confronted such claims under the guise of the

14<sup>th</sup> Amendment<sup>1</sup>; and, even assuming Plaintiff has “gotten it wrong,” the debate is one of semantics, not substance. *Cf. Vitel S.A., Inc. v. Publicker Indus., Inc.*, 1986 WL 8828, \*2 (E.D. Pa. Aug. 13, 1986) (even where a plaintiff “misconceive[s] the proper legal theory of [her] claim,” it cannot properly be dismissed if there appear viable grounds for relief) (citation omitted).

Accordingly, Defendants’ Motion to Dismiss (**Doc. 27**) is **DENIED**.

August 27, 2019

s/Cathy Bissoon

Cathy Bissoon

United States District Judge

cc (via ECF email notification):

All Counsel of Record

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<sup>1</sup> *See, e.g., Laniado v. County of Ocean*, 2019 WL 3451705, \*7 (D. N.J. July 31, 2019) (discussing *Monell* claim, regarding excessive force, under 4<sup>th</sup> and 14<sup>th</sup> Amendments) (claim dismissed on other grounds); *Simmons v. Roxbury Police Dep’t*, 2017 WL 5188060, \*9 (D. N.J. Nov. 9, 2017) (same).